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Application Serial No.: 10/633,850
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REMARKS

Claims 1-20 are pending in this application. Claims 1-18 are canceled herein without prejudice. New claims 21-28 are added herein. Support for the new claims is found throughout the specification and in the language of the original claims, for example, at least, on page 5, lines 22-33; on page 6, lines 1-13, on page 22, lines 27-32, on page 25, lines 13-16, on page 26, lines 29-33 through page 27, lines 1-4 and on page 27, lines 30-33 through page 28, lines 1-4. No new matter is added by these new claims and their entry and consideration are respectfully requested.

RESTRICTION OF CLAIMS

The Office Action states that claims 1-20 are restricted into the following groups.

Group I: Claims 1-7, 9-10, and 15-18, drawn to a transgenic plant expressing a heterologous construct encoding a mutant AL1 protein and a method of making a transgenic plant, classified in class 435, subclass 320.1.

Group II: Claim 8, drawn to a method of combating geminivirus infection, classified in class 800, subclass 288.

Group III: Claims 11-14, drawn to nucleotide sequences and the genetic construct comprising the nucleotide sequences, classified in class 530, subclass 350.

Group IV: Claim 19, drawn to a polypeptide of a mutant AL1 protein, classified in class 530, subclass 350.

Group V: Claim 20, drawn to a nucleotide sequence encoding a mutant AL1 protein, classified in class 530, subclass 350.

The Restriction Requirement further states that an election of species from claim 2 is required as well as an election of a nucleotide sequence or amino acid sequence, depending on the group elected. Applicants also note that, pursuant to a telephone conference between

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Examiner Zhang and applicants' representative on August 30, 2006, an election of a geminivirus species is not required if the claim of Group V is elected.

Applicants provisionally elect Group V (claim 20) and provisionally elect the amino acid sequence of SEQ ID NO:109, with traverse.

The traversal is on the basis that the Examiner has not demonstrated that the requirements for claim restriction have been met. In particular, it is stated in section 803 of the MPEP that two criteria for proper restriction of claims must be met: 1) the inventions must be independent and distinct as claimed, AND 2) there must be a serious burden on the examiner if restriction is required. The MPEP further states that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions."

Applicants believe that the Examiner has not met the requirements of a *prima facie* showing of why a search of the amino acid sequences of claim 20 together would pose a serious burden. In particular, each of the amino acid sequences is encoded by a mutant sequence of the same gene, AL1, of a geminivirus. Furthermore, claim 19 of Group IV and claim 20 of Group V are indicated in the Office Action to be in the same class and subclass. Thus, applicants respectfully request that this restriction, particularly as it regards Groups IV and V and the nucleotide sequences disclosed therein, be reconsidered and withdrawn in order to facilitate efficient prosecution of this application.

Furthermore, if the claims of Group V are found to be allowable, applicants request that the Examiner review the claims of the other groups according to the practice of rejoinder as set forth in section 821.04 of the MPEP. In particular, it is stated therein that if a product claim is elected in a restriction and then found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim are to be rejoined in the same application.

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The Examiner is encouraged to contact the undersigned directly if such contact will expedite the examination and allowance of the pending claims.

No fee is believed due with this response. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

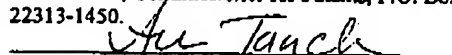


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**CERTIFICATION OF FACSIMILE TRANSMISSION
UNDER 37 CFR § 1.8**

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office via the central facsimile number 571-273-8300 on September 11, 2006 and is addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Amelia Tauchen